

BMS

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

18

EDWARD BRACEY,

Petitioner,

v.

JEFFREY BEARD, et al.,

Respondents

FILED

CIVIL ACTION (HABEAS CORPUS)

No. 02-CV-3685

Hon. Berle R. Schiller

MICHAEL E. KUNZ, Clerk

**This is a capital case**

Dep. Clerk

**MOTION FOR UNOPPOSED 15-DAY EXTENSION TO FILE  
PETITIONER'S MEMORANDUM**

Petitioner, Edward Bracey, through his counsel and with the consent of counsel for the Respondents (Thomas Dolgenos, Esquire, Chief, Federal Litigation, Philadelphia District Attorney's Office), respectfully moves for a 15-day extension to file his memorandum of law herein. In support, Petitioner submits:

1. This is a habeas corpus action in a capital case. Petitioner filed his petition.
2. The parties thereafter submitted a proposed briefing schedule for Petitioner's memorandum and the Respondent's response, which the Court entered. Under this schedule, Petitioner's memorandum is due on March 3, 2003.
3. Petitioner respectfully requests that the Court allow a 15-day extension of the schedule, for the reasons set forth below. Petitioner's memorandum would be due on March 18, 2003, pursuant to this request.

4. Respondents have no objection to the granting of this request. Counsel for Respondents, Thomas Dolgenos, Esquire, of the Philadelphia District Attorney's Office authorized Petitioner to make this representation on Respondent's behalf.


5. The grounds for this request are that this week, as Petitioner was working to complete his memorandum, the United States Supreme Court issued Miller-el v. Cockrell, No. 01-7662. Miller-el is a lengthy opinion that, in our view, is relevant to Petitioner's Batson v. Kentucky, claim and possibly other claims as well. Because of Miller-el, Petitioner must redraft the Batson argument he was preparing for the memorandum. To effectively develop the argument, Petitioner has ordered the brief in the Supreme Court and lower courts in Miller-el, but has not yet had a chance to review them. Neither has Petitioner yet fully analyzed Miller-el and its impact here, given the recency of the opinion's issuance.

6. In addition, Petitioner's counsel participated in an argument in the United States Court of Appeals for the Third Circuit in a capital case this week; submitted a brief in a capital habeas case in the District Court before Judge Pollak earlier this week; and has been working on another brief for the Court of Appeals to be filed in March. These circumstances, and as discussed above, especially the issuance of the decision in Miller-el, demonstrate that the granting of this request is appropriate.

7. The granting of this shall cause no prejudice to Respondent

WHEREFORE, Petitioner respectfully requests that the Court allow this unopposed 15-day extension, to March 18, 2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Billy H. Nolas", written over a horizontal line.

BILLY H. NOLAS

ROBERT BRETT DUNHAM

Capital Habeas Corpus Unit

Federal Court Division

Defender Association of Philadelphia

437 Chestnut Street, Suite 510

Philadelphia, Pa. 19106-2414

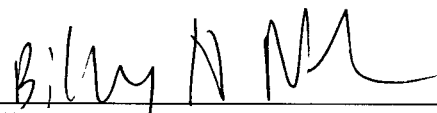
215-928-0520

Dated: February 27, 2003

**CERTIFICATE OF SERVICE**

I, Billy H. Nolas, hereby certify that on this date, I caused the foregoing *Motion for Unopposed 15-Day Extension To File Petitioner's Memorandum* to be served on the following person by first class mail:

Thomas Dolgenos, Esq.  
Office of the Philadelphia County District Attorney  
1421 Arch Street  
Philadelphia, PA 19102

  
\_\_\_\_\_  
Billy H. Nolas

Dated: February 27, 2003

**FILED**  
FEB 27 2003  
MICHAEL E. RUNZ, Clerk  
By \_\_\_\_\_ Dep. Clerk